



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MASSACHUSETTS 02109-3912**

June 3, 2015

Alicia Good, Assistant Director
Rhode Island Department of Environmental Management
Office of Water Resources
235 Promenade Street
Providence, RI 02908

Dear Ms. Good:

Thank you for your submission of the State of Rhode Island's 2014 Clean Water Act (CWA) Section 303(d) list of impaired waters. In accordance with Section 303(d) and 40 CFR §130.7, the U.S. Environmental Protection Agency, Region 1 (EPA) conducted a complete review of Rhode Island's 2014 Section 303(d) list and supporting documentation. Based on this review, EPA has determined that Rhode Island's 2014 Section 303(d) list meets the requirements of Section 303(d) of the CWA and EPA's implementing regulations. Therefore, by this letter, EPA hereby approves the State's Section 303(d) list, submitted to EPA on May 7, 2015.

Rhode Island's submission includes a list of water bodies for which technology-based and other required controls for point and nonpoint sources are not stringent enough to attain or maintain compliance with the State's Water Quality Standards. As required, this list includes a priority ranking for each listed water body and specifically identifies waters targeted for total maximum daily load (TMDL) development in the next two years. A long-term schedule for developing TMDLs for all waters on the State's list was also provided. The statutory and regulatory requirements, and EPA's review of the State's compliance with these requirements, are described in detail in the enclosed approval document.

Assessments of state waters conducted under Sections 305(b) and 303(d) of the CWA should be prepared in a manner to support their submission to EPA by April 1 of even numbered years in accordance with those sections of the CWA and 40 CFR §130.7. In addition, waters should be assessed using Water Quality Standards that are approved and in effect at the time of the assessment.

The Rhode Island Department of Environmental Management (RI DEM) has successfully completed a public participation process that provided the public an opportunity to review and comment on the State's 2014 Section 303(d) list. Through this effort, Rhode Island was able to consider and address public comments in the development of the final list. A summary of the public comments and Rhode Island's responses to public comments was included in the State's May 7, 2015 submittal.

My staff and I look forward to continued cooperation with RI DEM in implementing the requirements of Section 303(d) of the CWA. If you have any questions regarding EPA's review or this approval, please contact Ralph Abele at (617) 918-1629 or have your staff contact Steven Winnett at (617) 918-1687.

Sincerely,

/s/

Ken Moraff, Director
Office of Ecosystem Protection

Enclosure

cc: Angelo Liberti, RI DEM
Elizabeth Scott, RI DEM
Connie Carey, RI DEM
Ralph Abele, EPA
Lynne Hamjian, EPA
Greg Dain, EPA
Steven Winnett, EPA

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
NEW ENGLAND REGION
1 CONGRESS STREET, SUITE 1100 (CCT)
BOSTON, MA 02114-2023**

MEMORANDUM

DATE: June 1, 2015

SUBJ: Approval Recommendation for Rhode Island's 2014 §303(d) list

FROM: Steven Winnett and Ralph Abele, Water Quality Branch

TO: Ken Moraaff, Director, Office of Ecosystem Protection

Recommendation

EPA - New England staff in both OEP and ORC have reviewed the Rhode Island Department of Environmental Management's (DEM) 2014 Section 303(d) list and supporting documentation and information. Based on this review, we have determined that RI DEM's §303(d) list, entitled **State of Rhode Island Section 303(d) List of Impaired Waters**, was developed in compliance with Section 303(d) of the Act and 40 CFR §130.7. Therefore, we recommend approval of the final §303(d) submission dated May 7, 2017.

Please note that, as shown in the attached email from Greg Dain, ORC has agreed to forego their usual concurrence in response to the information we gave them about the lack of issues in this list approval.

EPA Analysis of Submittal:

On March 30, 2015, Rhode Island announced the release of their public review draft 2014 §303(d) list to the public and made it available on their website, simultaneously beginning the four week public comment period. EPA - New England reviewed the draft. After our review, we sent DEM a comment letter requesting additional information on the Category 4B listed segments of Mt. Hope Bay. We received DEM's final §303(d) list on May 7, 2015.

Our review was based on an analysis of whether DEM reasonably considered existing and readily available water quality-related data and information and reasonably identified waters required to be listed. Due to problems the agency had in migrating its water quality data to a new database, and because of inadequate resources to address the problem (they were unable to hire a contractor to fix it until very recently), DEM did not do a data solicitation in preparation for this list, and only conducted a limited assessment of a few water body systems for which it had available data (see approval documentation), although they did add a number of waters and impairments to the list from those systems. They have pledged to do a more comprehensive

assessment in the next cycle, as they have in all previous cycles. In light of that situation, we determined that DEM has considered all data and information regarding §130.7(b)(5) categories, which is the minimum required by the regulations (see section III of the enclosure).

Our analysis included a side-by-side comparison of the 2012 and 2014 §303(d) lists. In addition, we reviewed the following: 1) RI's public comment process, 2) public comments and DEM's responses, and 3) current RI Water Quality Standards. As it turns out, our comment was the only one DEM received during the public comment period, and DEM adequately addressed it. Our review also extensively examined the justification for delisting any 2012 §303(d) listed waters (see approval document, enclosed). We feel that those water bodies which DEM removed from the list meet the necessary qualifications. Unlike previous years, DEM did not request the delisting of any water bodies or impairments as being restored. Also, unlike in previous years, the Center for Biological Diversity did not submit requests to DEM to list ocean waters for ocean acidification. These two factors made the list review relatively simple.

As required, Rhode Island's 2014 §303(d) list includes prioritized impaired waters requiring the development of Total Maximum Daily Loads (TMDLs). Rhode Island has identified waters for which TMDLs may be completed during the next 2 years, and those other waters still requiring the development of TMDLs are prioritized for completion by 2015, 2017, 2018, 2020, 2022, 2023, 2024, 2025, 2026, 2028 and 2035. Rhode Island is committed to developing TMDLs for all currently listed waters by the year 2035, although it is likely that many will come off the list before then due to restoration activities.

As required, DEM solicited public comment on the proposed list. DEM held a public information meeting on April 9, 2015 to brief interested individuals and groups on the §303(d) list and review process; approximately 25 people attended it. They posted the draft §303(d) list document on their webpage, and emailed more than 500 copies of the proposed list to individuals and organizations. As noted above, they received only one public comment during the comment period, which they addressed satisfactorily.